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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/536,727	03/28/2000	Michael T. Rossides		5508

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EXAMINER

RETTA, YEHDEGA

ART UNIT	PAPER NUMBER
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3622

DATE MAILED: 05/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/536,727

Applicant(s)

ROSSIDES, MICHAEL T.

Examiner

Yehdega Retta

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

This office action is responsive to amendment filed June 29, 2004. Claim 7 have been cancelled, new claim 8 have been added.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Goldhaber U.S. No. 5,855,008, in view of Walker et al. U.S. Patent No. 6,086,477 and further in view of Vance U.S. Patent No. 6,267,672.

Regarding claim 8, Goldhaber teaches entering an offer if user pays attention to a specified message and if user satisfies a set of target audience characteristics; presenting an interface enabling access to accept the offer, registering acceptance (see col. 7. lines 23-67, col. 11 line 49 to col. 12 line 45 and col. 14 line 65 to col. 17 line 25). Goldhaber teaches paying cash to advertisement viewers, however does not teach providing the value of the chance to win a payoff, (expected value including a Payoff). Walker teaches paying expected value including a payoff to players (see col. 9 line 1 to col. 10 line 48). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Goldhaber's payment to advertisement viewers and Walker lottery system. Randomly selecting winners and paying expected value of the award to selected ones reduce the outcome of bets or winners. Therefore,

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one would be motivated to provide chance of winning to all participants and paying Expected value to only selected winner in order to reduce the outcome. Both Goldhaber and Walker failed to teach inspecting winners, if they satisfy offer condition, it is taught in Vance. Vance teaches winners submit information prior to receiving the prize (see col. 6 lines 34-54). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Goldhaber's attention brokerage and Walker's payment of expected value and Vance verification of winners, in order to prevent dishonest consumers from fraudulently claiming prizes as taught by Vance (see col. 6 lines 34-54).

Response to Arguments

Applicant's arguments filed June 29, 2004 have been fully considered but they are not persuasive. Applicant's amendment, overcome the rejection of "112". Therefore, the rejection has been withdrawn. The rejection of 35 USC § 103 still applies.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Applicant argues that Vance cannot possibly suggest or imply combining of verification with Goldhaber because Vance teaches a promotional game that has nothing to do with payment for attention to a message. Applicant in his argument states that Vance's verification step is not the kind of inspection referred to the claimed invention, Vance's verification does not have to do with a recipient matching a set of offer conditions but is simple code or password verification. Examiner agrees that Vance has nothing to do with payment to ad message, however examiner

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does not agree that the verification is simple code or password verification. Vance teaches allowing clients to play the game and only after the winner is selected verifying if the user meets offer condition, which in this case is having the asses code which provide the right to participate in the game. Therefore, Vance teaches verifying if participate meets offer condition, by requesting participant to submit his or her access information code prior to receiving the winning prize. Applicant does not claim what the offer condition is. Applicant also argues that Goldhaber does make any mention of inspection of a recipient's qualifications. Applicant's claim states, entering an offer stating that recipients will be owed an amount of money if they pay attention to a specified ad message and if they satisfy a set of at least target audience characteristics, as a set of offer condition. The claim also recites presenting an interface to the public for enabling anyone to access and accept said offer and only if recipient wins said bet determining whether said recipient satisfies offer condition. Goldhaber teaches entering an offer stating that recipients will be owed an amount of money (will be paid) if they pay attention to ad message and if they satisfy one target audience characteristics, in this case anyone who is willing to sign in and view ads, enabling anyone to access and accept the offer. Walker teaches paying expected value including a payoff to players and Vance teaches verifying offer condition only if participant wins the bet.

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Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yehdega Retta whose telephone number is (703) 305-0436. The examiner can normally be reached on 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (703) 305-8469. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Yehdega Retta
Primary Examiner
Art Unit 3622

YR